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Good Morning. I would like to thank the South Carolina Bar's International Law Committee, particularly John Kern, for inviting me to address you today. Either through story or personal introduction, I feel like I know half the Palmetto State through George Wolfe, who I understand will be speaking to the convention later today at lunch. I have had the honor and pleasure of working directly for George for the past few years, as he has served as Treasury's Deputy General Counsel. If half the stories are half as good as George tells them, then South Carolina is quite some place. Anyway, it is particularly nice for me to travel to Charleston, as I have never before had the pleasure of visiting this beautiful, historic city.

This is my first public address as FinCEN's new Director. It is also my first public address as a non-lawyer – I was a practicing government attorney my entire career before my appointment as Director of FinCEN – and, wouldn't you know it, fate has me giving my first address to a room full of lawyers. I hope I can keep up with the audience. The theme of the day is "Private Lawyers Engaged in the Fight Against Terrorism." My topic is "Tightening the Screws: the USA PATRIOT Act and other developments." I am going to focus on Title III of that Act, The International Money Laundering Abatement and Anti-Terrorism Act of 2001.

I. Overarching Principles:

At the outset, let me review some of the basics. From the time of its creation, the Financial Crimes Enforcement Network's purpose has been to assist in safeguarding our nation's financial system from abuse by criminals and terrorists. As FinCEN has grown, so have the tools available to us to fulfill this purpose. Today, the Secretary of the Treasury has given us the responsibility for administering the Bank Secrecy Act – which principally involves collecting required information; maintaining that information in a database that is fully accessible to law enforcement and the regulators; and, assisting law enforcement and the intelligence community with our analysis of available information. As Director of FinCEN, I intend to enhance our capabilities in all three areas. But our focus today is the regulatory aspect of what we do at FinCEN, particularly, FinCEN's implementation of Title III of the USA PATRIOT Act. Title III of the Act directed the Secretary of the Treasury to enhance dramatically our anti-money laundering and anti-terrorist financing regulatory regime. To put this into perspective, generally, Title III of the Act sought to accomplish the following: (1) enhance our ability to share information; (2) protect the international gateways to the U.S. financial system, the correspondent account; (3) prescribe uniform customer identification verification procedures for all financial institutions opening accounts; and (4) expand our anti-money laundering regime to all categories of financial institutions whose services may be abused by money launderers or terrorists.

In implementing these provisions, our efforts have and continue to be guided by certain overarching principles, principles that FinCEN and Treasury policymakers have articulated. They include:

- Enhancing the flow of critical financial information;
- Focusing financial institutions' reporting on information that is useful to law enforcement and that minimizes the regulatory burden imposed;
- Fairly and consistently administering the regulatory regime across industry lines to prevent regulatory arbitrage;
- Protecting important privacy interests; and
- Ensuring that vulnerabilities in the financial system are addressed appropriately.

II. Theory of Regulation

I think it is important to take a few moments to discuss our overarching theory of regulation. This is especially important as we move to regulate categories of financial institutions that have not previously been subject to regulation, such as the insurance industry and businesses, for example, dealers in precious stones, metals, and jewels. Those of you with clients engaged in these businesses should have a sense of what is important to us as you assist your clients in developing their anti-money laundering programs and procedures.

- First: **Compliance must be risk-based** – Our regulations demand that financial institutions evaluate their business, including their products, distribution channels, customer base, etc., in order to assess their vulnerabilities to money laundering and take appropriate steps to focus compliance resources on minimizing the greatest risks. Compliance is no longer a “check-the-box” exercise, but rather requires financial institutions to exercise their judgment, as informed by our guidance and assistance, as to appropriate steps. A risk-based approach not only makes sense, from the perspective of meeting our goals of safeguarding the integrity of the financial system, but it is also essential given the diversity of today's financial services providers.
- Second: **Institutional commitment to compliance** – We count on financial institutions to make a sincere commitment to compliance with our regulations from the top down. The message that senior management sends throughout the institution about compliance sets the tone for the whole anti-money laundering program.
- Third: **Education first and foremost** – Our first and most important task as the administrators of the BSA and as a regulator, is to educate the financial community about our regulations and what is expected of them. This is true not

only for the regulations affecting the banking and securities industry, but also for the series of new regulations we are issuing that require non-bank financial institutions to establish basic anti-money laundering controls. While we will enforce compliance with our regulations, aggressively when necessary, our primary objective is to make sure that the industry knows the requirements.

Fourth: **Maintain constant dialogue with the industry and law enforcement** – The success of our regulatory regime is contingent on open channels of communication. This includes identifying and analyzing the latest trends in money laundering or the financing of terrorism, evaluating the operation of the regulations within each industry, ensuring that necessary information is collected, and providing feedback and guidance on compliance.

III. Goals:

The challenge to FinCEN today has never been greater. As our responsibilities continue to grow, so does our commitment to succeed. Here are a few thoughts I have for moving forward –

- We need to continue to move forward in our implementation of the USA PATRIOT Act, in particular, continuing our review of new categories of financial institutions to determine whether anti-money laundering regulation is appropriate;
- We need to work with the financial community and law enforcement to evaluate the operation of regulations issued pursuant to the USA PATRIOT Act and make adjustments as necessary;
- We need to expand and enhance our regulatory guidance and feedback;
- We need to enhance our analytical capabilities and utilization of the BSA and intelligence data.

While we have issued an unprecedented number of regulations over the past two years under Title III the PATRIOT Act, we have some important work to finish. For example, working with the financial regulators, we will complete final regulations requiring due diligence and, in some cases, enhanced due diligence, for correspondent accounts maintained for foreign financial institutions as well as private banking accounts. This is the final element of the comprehensive set of regulations designed to protect the international gateways to the U.S. financial system. We must also issue final anti-money laundering program regulations for key non-bank sectors, such as the insurance industry and dealers in precious stones, metals, and jewels, as well as complete proposed regulations for such industries as loan or finance companies and persons involved in real estate closing and settlements. We are completing work on a final regulation requiring mutual funds and certain insurance companies to file Suspicious Activity Reports.

Finally, we will issue additional customer identification regulations – which mirror the regulations issued for banks – for other financial institutions offering accounts.

Equally as important as issuing regulations is our ongoing effort to review their operation and effectiveness. The reality of the USA Patriot Act is that we were called on to issue an unprecedented volume of regulations in a very short period of time. It is essential, therefore, that we evaluate our efforts and, where necessary, make changes. These efforts are formal, such as our participation in the Task Force formed by former Deputy Secretary Dam, as well as informal, through a variety of outreach and feedback mechanisms. This is an iterative process that will succeed, based on the willingness of the industry, law enforcement, and the regulators to participate and take a critical look at our work. This process will continue.

We will continue to work to expand the partnership with industry. Since passage of the USA PATRIOT Act, we have enjoyed an unprecedented level of cooperation and assistance from the financial services sector. The results are palpable – our regulations strike a better balance between meeting our enforcement goals and minimizing unnecessary burdens placed on industry. But the only way in which this partnership continues is if we live up to our end of the bargain. A partnership means that we must be responsive to concerns, provide necessary feedback, and follow up on our commitment to assist with compliance.

Our international partners are also an important element in our domestic regulatory regime. Indeed, the best domestic anti-money laundering protections are undermined if other jurisdictions do not implement similar standards. Our role involves working for consistency, a raising of the bar, by assisting Treasury as they work through established international organizations such as FATF, as well as through informal bilateral contacts.

Finally, a critical theme of Title III of the Patriot Act, expanding information sharing with the financial community to enhance anti-money laundering and anti-terrorist financing controls, is perhaps one of our greatest challenges. As an Agency, we are committed to providing the industry with more and better information to enable them to protect themselves and our financial system. But identifying appropriate mechanisms through which information can be shared is difficult.

That is why I think one of the most important tasks given to FinCEN under the PATRIOT Act is to enhance the flow of information as mandated by section 314. Section 314 encourages development of new ways to share information about terrorists or money laundering suspects rapidly between law enforcement and financial institutions, and to enable financial institutions to share information among themselves. Section 314 gave FinCEN the opportunity to fill a gap in its ability to quickly respond to law enforcement with financial information that may pinpoint acts of terrorism or serious financial crime. FinCEN created a communications system between law enforcement and financial institutions that can transmit names of suspects to several thousands of financial institutions and receive reports back of matches, all within a matter of days.

This pointer system enables law enforcement to locate accounts and transactions of suspects so that law enforcement may then follow up with the financial institution directly to obtain the information. As of mid-January, through the section 314 process, financial institutions have helped law enforcement obtain 472 grand jury subpoenas, 11 search warrants, and three indictments since February, 2003. I think we would all agree this is a terrific accomplishment and our goal is to continue to refine and enhance this process.

Candidly, after having been on the job for less than two months, I am still learning and formulating my goals. Fortunately I am guided in all my efforts at FinCEN by a group of dedicated professionals, many of whom have been around since FinCEN's creation. With their assistance, and with FinCEN's partners, we will be successful.

Thank you for inviting me here today. I am truly honored to be the Director of FinCEN and am dedicated to its mission of protecting the integrity of the nation's financial systems through our partnerships with law enforcement, the financial industry, and the regulatory agencies. Even with the most advanced technology and the most sophisticated analytical techniques, we are always going to be dependent upon the expertise and insight of the individuals who are on the front line, our industry partners and the practitioners who assist them. Thank you.